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Before the
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Washington, D.C. 20554
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

IN THE MATTER OF:

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CALVARY EDUCATIONAL BROADCASTING
NETWORK, INC.

For Renewal of License
of Station KOKS (FM)
Poplar Bluff, Missouri

DATE OF HEARING: November 19, 1992

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FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area 261-1902
Balt. & Annap. 974-0947

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2					
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I N D E X (continued)

E X H I B I T S

	<u>KOKS</u>	<u>Identified</u>	<u>Received</u>	<u>Rejected</u>
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24	Hearing began: 8:50 a.m.		Hearing Ended: 5:20 p.m.	
25	Lunch Break Began: 1:05 p.m.		Lunch Break Ended: 2:00 p.m.	

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P R O C E E D I N G S

1 JUDGE STIRMER: Good morning. Are there any preliminary
2 matters?

3 MR. DUNNE: Yes, Your Honor.

4 MR. SHOOK: Your Honor, we did have a chance to meet
5 last night and discuss the situation relative to Mr. Stewart,
6 and we, we did work out an agreement relative to those por-
7 tions of Mr. Stewart's testimony which we agreed can be with-
8 drawn, and that that would thereby limit cross-examination.

9 JUDGE STIRMER: Very well. You want to state what your
10 agreement is?

11 MR. SHOOK: Your Honor, I can -- if you will turn to
12 Mr. Stewart's testimony, we had agreed that the following
13 portions of that testimony can be withdrawn: paragraph 3 in
14 its entirety; paragraph 4 up to the sentence on page 3 that
15 begins with, "At the time, I wasn't real familiar" -- but all
16 the preceding portions of that paragraph can be withdrawn;
17 paragraph 6 in its entirety; paragraph 9 in its entirety;
18 paragraph 10 in its entirety; paragraph 11 in its entirety;
19 paragraph 14 in its entirety; paragraph 15 in its entirety;
20 paragraph 16 in its entirety; paragraph 17 in its entirety;
21 and paragraph 19 in its entirety.

22 JUDGE STIRMER: All right, as I understand it,
23 Mr. Dunne, those portions are being withdrawn.

24 MR. DUNNE: Yes, they are, Your Honor, and I'll provide
25

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1 the conforming copies of this exhibit for the record before
2 counsel leaves office on the way back to Washington.

3 JUDGE STIRMER: Very well.

4 MR. DUNNE: In accordance with what Mr. Shook has just
5 outlined for you.

6 JUDGE STIRMER: Now, does that leave some areas where
7 you would need additional cross-examination of Mr. Stewart?

8 MR. SHOOK: Yes, Your Honor, it does.

9 JUDGE STIRMER: Very well. Then I think it would be
10 preferable to take that testimony at this time. Is that
11 right?

12 MR. DUNNE: Yes, Your Honor, that's what we thought as
13 well. Before he testifies, if we could ask Mr. Stewart a few
14 questions about his medical condition so we can establish that
15 for the record as well.

16 JUDGE STIRMER: All right, haven't you done that
17 already?

18 MR. DUNNE: Pardon?

19 JUDGE STIRMER: I think you've done that already.

20 MR. DUNNE: Well, I just want to make sure that this
21 morning he feels --

22 JUDGE STIRMER: Very well.

23 MR. DUNNE: To check --

24 JUDGE STIRMER: All right. Mr. Stewart, would you
25 please resume the witness stand? I don't believe you have

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1 | been discharged as a witness, so you continue under oath.

2 | WITNESS: Your Honor, may I make a statement before we
3 | start?

4 | JUDGE STIRMER: I think your counsel wants to ask you
5 | some questions.

6 | WITNESS: But I wanted to make a apology to the court.

7 | JUDGE STIRMER: Well, why don't you let counsel --

8 | WITNESS: All right, sorry.

9 | MR. SHOOK: Your Honor, if I may have one minute to
10 | consult with Mr. Dunne. A matter came up this morning that if
11 | we could reach a stipulation on it, it might eliminate certain
12 | other testimony that I would otherwise want to provide, and it
13 | would only take one minute, Your Honor.

14 | JUDGE STIRMER: Very well, off the record.

15 | (Whereupon, a brief recess was taken.)

16 | JUDGE STIRMER: All right, are you ready to proceed?

17 | MR. DUNNE: Yes, I am, Your Honor.

18 | JUDGE STIRMER: All right, Mr. Dunne.

19 | DIRECT EXAMINATION

20 | BY MR. DUNNE:

21 | Q Mr. Stewart, I just have a few short questions.

22 | Yesterday you were on the witness stand and you talked about
23 | your medical condition, is that correct?

24 | A Yes.

25 | MR. SHOOK: Your Honor, excuse me, you would want to

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1 have Mr. Ramage outside until he should be ready to testify,
2 correct?

3 JUDGE STIRMER: Well, I --

4 MR. SHOOK: That was, that was consistent with the, the
5 rule, right?

6 JUDGE STIRMER: Very well. Mr. Ramage, would you --

7 MR. DUNNE: Off the record just a moment, Your Honor.

8 (Whereupon, a brief recess was taken.)

9 JUDGE STIRMER: Back on the record.

10 BY MR. DUNNE:

11 Q Mr. Stewart, yesterday you testified as to certain
12 medical conditions that you have.

13 A Yes.

14 Q How are you feeling this morning?

15 A Fine.

16 Q Are you well rested?

17 A Yes.

18 Q Have you taken your medication for your high blood
19 pressure?

20 A Yes.

21 Q Have you taken your blood pressure?

22 A This morning?

23 Q Yes.

24 A No.

25 Q But you do feel all right?

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1 A Yes.

2 Q And you feel at this point that you're, you're feeling
3 well enough to testify --

4 A Yes.

5 Q -- and to begin with this proceeding?

6 A Yes.

7 MR. DUNNE: Okay, thank you.

8 JUDGE STIRMER: All right, Mr. Stewart, you wanted to
9 make a statement.

10 WITNESS: I want to apologize to the court for my
11 inability Tuesday afternoon to answer the questions in a
12 feasible way, and I ask the court's forgiveness.

13 JUDGE STIRMER: Very well. Mr. Shook,
14 cross-examination.

15 MR. SHOOK: Thank you, Your Honor.

16 CROSS EXAMINATION

17 BY MR. SHOOK:

18 Q Mr. Stewart, again, as we went over on Tuesday, if I
19 ask you a question and you don't understand the question,
20 please say so and I'll, I'll try to make it understandable.
21 If, for whatever reason, you can't hear me or some of my words
22 don't come out clearly, again just say so and I'll, I'll try
23 to make myself understood. Now, Mr. Stewart, I'd like you to
24 turn to paragraph 4 of your testimony, moving on to page 3.
25 Do you see the sentence that reads "at the time I wasn't real

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1 familiar with technical matters" et cetera?

2 A Yes.

3 Q Now, what were you referring to there in terms of the
4 technical matters and the time involved? And you can take a
5 look at other parts of your testimony if you need to help you
6 with that.

7 A I wasn't familiar with -- no, sir. No. I, I didn't
8 know anything about, about the technical -- the equipment.

9 Q Okay. Now, by technical matters here, are you refer-
10 ring to complaints of blanketing interference?

11 A Yes.

12 Q And how to deal with them?

13 A Yes.

14 Q And the "at the time" means that when the complaints
15 were first coming in, right?

16 A Yes.

17 Q Okay. Now, on Tuesday, we, we did have some questions
18 and answers about material that came in from the FCC.

19 A Yes.

20 Q And there was a letter from the FCC. Do you remember
21 our questions and answers about that?

22 A Yes.

23 (Pause.)

24 MR. DUNNE: Excuse me a second.

25 JUDGE STIRMER: I'm referring to what --

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1 BY MR. SHOOK:

2 Q Now, your counsel has placed before you the copy of the
3 letter dated October 21, 1988, from the FCC to
4 Mr. Jim Baggett, correct?

5 A Yes.

6 Q Now, do you recall having looked at this letter on or
7 about October 21, 1988?

8 A No.

9 Q Did there come a time when you did look at this letter?

10 A Yes.

11 Q And could you tell us approximately when that was?

12 A The last of November.

13 Q The last of --

14 A Of, of '88.

15 Q The last of November.

16 A Yes.

17 Q All right, and what occasioned, or what caused you to
18 look at this letter from the FCC?

19 A Mr. Baggett had left. He came in one morning and said,
20 "I'm through. I'm going back to Kentucky. You can take it
21 and do whatever you want to." And he left. The secretary,
22 Mrs. Stewart -- Mr. Baggett had an office of his own, and
23 after he left Mrs. Stewart was going through his office,
24 through the files, and found this letter. This was the first
25 that it was brought to the attention of me.

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1 Q And when the letter was brought to your attention, what
2 did you do with it?

3 A I didn't know what to do with it.

4 Q Well, maybe I should rephrase that. Did you read the
5 letter?

6 A Yes.

7 Q Did you read the attachments that came with the letter?

8 A Yes.

9 Q And that included the complaints made by the two
10 individuals that are referenced there? To help you with that,
11 if you'd look in the body of the letter as opposed to the
12 attachments, there's a reference there to complainants. Sir,
13 it's in the first page of the letter itself.

14 MR. DUNNE: May I?

15 MR. SHOOK: Yes.

16 JUDGE STIRMER: Second paragraph of the letter,
17 Mr. Stewart.

18 (Pause.)

19 MR. SHOOK: Have you read that, Mr. Stewart?

20 WITNESS: Yes, I'm ready.

21 MR. DUNNE: Why don't you repeat your question, coun-
22 selor?

23 MR. SHOOK: Okay.

24 BY MR. SHOOK:

25 Q Did you also look at the complaints that are referenced

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1 in the FCC letter?

2 A No, no. No, I did not.

3 Q Okay, did you look at the attachments that came with
4 the FCC letter?

5 A No, I did not.

6 Q What was your understanding as to what this letter
7 requires of you, if anything?

8 A I had no understanding.

9 Q But you did read the letter.

10 A I read the letter.

11 Q Now, after you read the letter, what did you do with
12 it?

13 A I gave it back to the secretary.

14 Q Do you mean your wife?

15 A Yes.

16 Q And what did you expect, if anything -- what did you
17 expect her to do with it, if anything?

18 A I didn't know how to do anything at that time.

19 Q Okay, did you realize from this letter from the FCC
20 that complaints about blanketing interference had been made to
21 the FCC?

22 A It's -- yes, the letter stated that.

23 Q And did you have any understanding from that, that the
24 station now had some obligation to deal with those complaints?

25 A Yes.

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1 Q And do you recall what your understanding was in terms
2 of what the station was supposed to do?

3 A It was told to the acting engineer at that time, which
4 was Mr. Earl Abernathy, and I was under the impression that he
5 would take care of it.

6 Q Now, is that part of what you're referring to in that,
7 that sentence that I directed your attention to in your testi-
8 mony? You have to refer to your testimony now. The first
9 sentence that we were looking at, there's a reference there to
10 you having consulted Earl Abernathy.

11 A Yes.

12 Q And --

13 A And Kevin Fisher.

14 Q Okay, and what was the purpose of your consultation
15 with Earl Abernathy?

16 A To see if he knew of anything that we could do.

17 Q All right, and you also consulted with Kevin Fisher?

18 A Yes.

19 Q And how did that consultation take place?

20 A I called him on the phone and talked to -- I remember
21 the -- I remember the conversation because it was the longest
22 that I had ever talked on the telephone, and I believe that
23 was almost 3 hours long. And he told us that -- about the
24 string filters, and that for us to try them, and he told us
25 how to make them, that would take a piece of, of antenna wire,

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1 the flat wire, and to put a clamp on the end of it where it
2 would be clamped on the back of the set, and then go out to
3 the set and take your pair of snips and hang -- then snip this
4 wire off until the pictures became clear, and he called it a
5 "bleed-off." It was bleeding the signal out of this.

6 Q You mean bleeding the KOKS signal out of --

7 A Yes, uh-huh. Yes.

8 Q -- the TV?

9 A Yes.

10 Q Now, you were on the phone with Kevin Fisher for close
11 to 3 hours?

12 A Yes.

13 Q Was anyone else on the telephone with you at the time?

14 A No.

15 Q It was just you and Kevin Fisher.

16 A Yes. This was after Jim Baggett had left.

17 Q How much time after Jim Baggett left transpired before
18 Earl Abernathy left?

19 A It was approximately 30 days.

20 Q So Mr. Abernathy remained in the employ of KOKS for
21 approximately 30 days after --

22 A Until approximately January 1.

23 Q Okay.

24 A Now, Mr. Abernathy never did turn in a resignation.

25 Q Just one day he wasn't there and that was that.

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1 A That was it. You'd call him and he never would show
2 up.

3 Q Do you have any idea where Mr. Abernathy is now?

4 A He was in Paducah, Kentucky the last I knew of him. I
5 haven't heard from him in a period of time.

6 Q Now, that's where Mr. Baggett went, wasn't it?

7 A Yes.

8 Q And Mr. Abernathy -- did Mr. Abernathy end up going
9 with Mr. Baggett?

10 A He was the engineer for Mr. Baggett.

11 Q All right, I just want to make sure I'm clear on the
12 time sequence. Mr., Mr. Baggett leaves at the end of November
13 of 1988.

14 A Yes.

15 Q And Mr. Abernathy stays another month, and then
16 Mr. Abernathy essentially follows Mr. Baggett back to
17 Kentucky?

18 A Well, he, he lives -- his residence was there at
19 Paducah.

20 Q Oh, Mr. Abernathy's residence --

21 A Yes.

22 Q -- was in Kentucky?

23 A Yes.

24 Q He never changed residences?

25 A No.

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1 Q Now, at the time you first became aware that there were
2 blanketing complaints and as you were talking on the phone
3 with Kevin Fisher, did Mr. Fisher bring to your attention
4 the -- that there was an FCC blanketing rule?

5 A Not that I can recall.

6 Q Okay, in looking at this letter from the FCC, do you
7 see any reference there to a blanketing rule?

8 A Yes.

9 Q Now, did you look at the blanketing rule at that time?

10 A I do remember Mr. Earl Abernathy going on and mapping
11 out the mileage.

12 Q Oh, no, that -- my question is, there's a specific
13 Commission rule that deals with blanketing, and I was wonder-
14 ing whether you looked at that rule.

15 A Are you talking about this two, 245 --

16 Q No, sir. No, sir. Maybe I should ask, ask a different
17 question. You were aware, weren't you, that there were FCC
18 rules that govern various aspects of FM radio station activ-
19 ity, correct?

20 A No.

21 Q Okay, did there come a time when you did have such an
22 awareness?

23 A Yes.

24 Q And what time was that?

25 A After Mr. Baggett left.

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1 Q Okay, and how did it come to your attention that there
2 were FCC rules that you would have to be concerned with?

3 A When the secretary, Mrs. Stewart, found this letter in
4 Mr. Baggett's file.

5 Q All right, then at that point did you make any effort
6 to locate FCC rules and look at them?

7 A We did not have a book. I believe there was one
8 ordered at this time.

9 Q All right, did you have your consulting engineer read
10 you the rule over the telephone?

11 A No.

12 Q Did you ask your lawyer about the rule?

13 A No.

14 Q Did there come a time when you actually saw the FCC's
15 blanketing rule?

16 A Yes.

17 Q And can you tell us approximately when that was?

18 A I don't remember exactly when we, we ordered a book
19 from the FCC, and, also, Mrs. -- well, Karen, she sent a copy,
20 I believe, of the rule book to us, and then we -- the Calvary
21 Broadcast ordered one.

22 Q All right, can you give me an approximate time when
23 that occurred?

24 A It wasn't too long. Apparently, it was some time in
25 November, towards the last of November, that she sent the, the

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1 paper where she had copied it off out of the book.

2 Q All right. Now, is what you're thinking of or refer-
3 ring to included as an attachment to this letter? Take a look
4 at the October 21 letter. There is an attachment that is with
5 that.

6 A This is what Karen -- I believe this is what she sent
7 to us.

8 Q All right, and did you, did you read through that
9 material?

10 A Yes.

11 Q All right, and what understanding, if any, did you have
12 of the station's obligations relative to persons who made
13 complaints of blanketing interference?

14 A This -- after receiving this was when we talked -- when
15 I talked to Mr. Fisher.

16 Q Right. No, I, I think, I think we're clear on that.
17 My question at this point is you got the letter from the FCC;
18 you've had a chance to read it; apparently you have read it;
19 you've read the attachments -- my question is, what
20 understanding did you have as to what the obligations of the
21 station were with respect to persons who made complaints of
22 blanketing interference?

23 A This was the first time that I had ever came in contact
24 with this, so I really didn't know.

25 Q Okay --

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1 A I had to learn.

2 Q So in other words -- I mean, are you telling us that
3 you read through it and you really didn't understand --

4 A I didn't understand.

5 Q -- what the station had to do?

6 A I didn't understand it, no, sir.

7 Q Did there come a time when you did obtain an under-
8 standing?

9 A The knowledge began to increase, yes.

10 Q All right, and was that something that came at a
11 particular point in time or was just gradual over the course
12 of months?

13 A We were certainly glad to receive the letter from FCC,
14 from that Karen, about what it was. We really didn't know
15 until she sent us the information pertaining to this letter.

16 Q Now, prior to this time, though, "this time" meaning
17 the end of November 1988 when you got this letter from Karen,
18 your station has been on the air 6, 7, 8 weeks by now?

19 A Yes.

20 Q And during that period, you were aware, weren't you,
21 that people were calling the, the radio station and complain-
22 ing about the effects of the radio station?

23 A Mr. Baggett never did confer with me about this situa-
24 tion.

25 Q Right, Mr. Baggett may not have but were there other

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1 people who did?

2 A At the present time, I was just in and out. I had no
3 position whatsoever.

4 Q Right, no, but the, the question, the question that
5 I'm --

6 MR. DUNNE: May I interject? Your Honor, may I inter-
7 ject here for just a moment? Mr. Stewart, remember on Tuesday
8 I cautioned you that it's very important to listen to
9 Mr. Shook's questions?

10 WITNESS: Yeah, yeah. Okay.

11 MR. DUNNE: And to answer the question that he asks? I
12 think His Honor will give you the same advice.

13 WITNESS: Okay.

14 MR. DUNNE: It's very important that you listen to
15 Mr. Shook's question --

16 WITNESS: Okay.

17 MR. DUNNE: -- very carefully and try to answer the
18 question that he puts to you. Now, you have to listen very
19 carefully to what he's asking.

20 WITNESS: Okay.

21 MR. DUNNE: And answer the question that he's asking,
22 okay? Try very hard to do that.

23 WITNESS: Okay.

24 BY MR. SHOOK:

25 Q All right, apparently I'm not making myself understood

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1 | so I'll, I'll try to ask the question a little bit differ-
2 | ently. We're now at the end of November of 1988, and the
3 | station has been on the air for 6, 7, or 8 weeks. You appar-
4 | ently have not spoken with Mr. Baggett about complaints of
5 | blanketing interference. My question is, had you spoken with
6 | anyone else at the station about complaints of blanketing
7 | interference?

8 | A No, I haven't. No.

9 | Q All right. Has anyone called you to complain about
10 | blanketing interference?

11 | A No.

12 | Q All right, so essentially the first knowledge that you
13 | have that these complaints are being made is when you find
14 | this letter from --

15 | A Yes.

16 | Q -- Karen Raines to Mr. Baggett.

17 | A When it's brought to my attention, yes.

18 | Q All right. Now, prior to this time -- and by this time
19 | I mean the end of November when you got this letter -- had you
20 | ever been to the house of Doris Smith for purposes of dealing
21 | with the complaint of blanketing interference?

22 | A No.

23 | Q Did there come a time when you did go to the house of
24 | Doris Smith?

25 | A Yes.

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1 Q And can you tell us approximately what time that was?

2 A Apparently, in January --

3 Q Well --

4 A -- of '89.

5 Q Okay. Now, Mr. Stewart, I would direct your attention

6 to paragraph 7 of your testimony.

7 A Okay, it's --

8 Q And perhaps this will help you recall.

9 A I went -- yes, I went there earlier, yes.

10 Q All right. Now, if I understand your testimony, it

11 appears here that you went to Doris Smith's house before you

12 were aware of the letter from Mrs. Raines to Mr. Baggett, am

13 I, am I wrong or am I confused?

14 A Yes.

15 Q Okay, can you set me straight in terms of the time

16 sequence here?

17 A After I talked to Kevin Fisher, we made a couple of,

18 of -- two of these.

19 Q You mean the string filters?

20 A Yes, and I carried one out to Mrs. Smith, and it --

21 JUDGE STIRMER: Why did you take one out to her? Did

22 she complain to you that there was interference?

23 WITNESS: She complained to -- not me personal.

24 JUDGE STIRMER: To the station?

25 WITNESS: To the station.

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1 JUDGE STIRMER: And that came to your attention?

2 WITNESS: It came to my attention through my secretary.

3 JUDGE STIRMER: And then you went out there to try to
4 install a string filter?

5 WITNESS: Yes.

6 JUDGE STIRMER: And this was after you talked to
7 Mr. Fisher and learned that this might help.

8 WITNESS: Yes -- but now, Mr. -- yes.

9 JUDGE STIRMER: All right, so you went out to
10 Mrs. Smith's house.

11 WITNESS: Yes.

12 JUDGE STIRMER: And you put on a filter?

13 WITNESS: Yes.

14 JUDGE STIRMER: Did it improve the reception?

15 WITNESS: No.

16 JUDGE STIRMER: All right, let's move along.

17 BY MR. SHOOK:

18 Q Now, with respect to the string filter, did you put a
19 string filter on any TV other than Mrs. Smith's?

20 A I tried to put one on, yes.

21 Q And what TV might that have been?

22 A Thomas Crutchfield.

23 Q All right. Other than Mrs. Smith and Mr. Crutchfield,
24 did you put a string filter on any TV?

25 A No.

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D.C. Area 261-1902
Balt. & Annap. 974-0947

1 Q Did you ever put a string filter on any TV of your own?

2 A Yes.

3 Q All right, and approximately when did that occur?

4 A In the first of January of, of '89.

5 Q All right. Now, what occasioned you or, you know,
6 what, what lead you to put a string filter on one of your own
7 TV's?

8 A To experiment.

9 Q All right, and what was the result of your experiment?

10 A It really wasn't very good.

11 Q All right. Now, for the first -- was it 6, 7, 8 weeks,
12 KOKS went off the air at approximately 6:00 p.m., correct?

13 A Yes.

14 Q Did you have any occasion to go to the Smith house or
15 the Hillis house after 6:00 p.m.?

16 A No.

17 Q So you never had an opportunity to observe their
18 reception with KOKS off the air --

19 A No.

20 Q -- air at that time?

21 A No.

22 Q When you went to Mr. Crutchfield's house, you learned
23 that he had a booster and a pre-amplifier, did you not?

24 A Yes.

25 Q Did you ever talk, at that time -- now, this is

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